W.P. 1282/05
WP 10263/03
OA 460/96.

IN THE MADHYA PRADESH STATE ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH AT JABALPUR (M.P.).

460
O.A.NO.____OF 1996.

APPLICANTS :

1. Ishwardas, aged about 26 years, S/o.Sarthidas Manikpuri.
2. Phulbai, aged about 25 years, D/o.Ram Sahu.
3. Gaukaran, aged about 34 years, S/o.Jagannath Singh.
4. Smt.Ramkunwar, aged about 32 years, W/o.Santram.
5. Shyamlal Patel, aged about 35 years, S/o. Kejauram.
6. Santuram Kewat, aged about 25 years, S/o. Bisahuram Kewat.
7. Rajeshwar Kumar Sahu, aged about 25 years, S/o.Late Bhaiyaram Sahu.
8. J.Minj, aged about 39 years, S/o.Lajrum Minj.
9. Ashok Kumar Shrivas, aged about 30 years, S/o.Ramlal Srivas.
10. Nanki Panchu, aged about 25 years, S/o.Dhanauram.

All working as Helpers (Daily-rated-workers), O/O. S.D.O., Hasdeo Baraj Sub-Division, Darri/E/M/RBC No.2, P.O.Hasdeo Project, Korba, DISTRICT:BILASPUR (M.P.).

- versus -

RESPONDENTS :

1. State of Madhya Pradesh, Through: Secretary, Water Resource Department, Vallabh Bhawan, BHOPAL (M.P.).
2. Engineer-in-Chief, Water Resources Department, Shivaji Nagar, BHOPAL (M.P.).

3. Chief Engineer,
Mini Mata Hasdeo Bango Project,
Government of Madhya Pradesh,
BILASPUR (M.P.).

4. Superintending Engineer,
Hasdeo Project Mandal,
Rampur, Korba,
DISTRICT:BILASPUR (M.P.).

5. Sub Divisional Officer,
Hasdeo E/M(R/R),
Sub Division Darri, Korba,
DISTRICT:BILASPUR (M.P.).

6. Sub Divisional Officer,
Hasdeo Braraj, RBC, No.II,
Project, Korba,
DISTRICT:BILASPUR (M.P.).

DETAILS OF APPLICATION

(61)

HIGH COURT OF JUDICATURE CHHATTISGARH: BILASPUR

Single Bench: Hon'ble Shri Satish K. Agnihotri, J.

W. P. No. 1282 of 2005

Petitioners : Ishwardas & others

Versus

Respondents : State of Madhya Pradesh (now Chhattisgarh) & others

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Shri Gautam Khetrapal, Advocate for the petitioners.

Shri Ajay Dwivedi, Panel lawyer for the respondents.

O R D E R

(Passed on this 3rd day of January, 2007)

1. Admittedly, the petitioners were appointed as daily rated employees on muster-roll basis at the rate fixed by the Collector. Vide order dated 30.7.1994 engagement of the petitioners as daily rated employees came to an end.
2. The petitioners by this petition seek quashing of the order dated 30.7.1994 and regularization with effect from the initial appointment as daily wage worker with all consequential benefits.
3. It is admitted fact that the appointment of the petitioners was not in accordance with law and dehors the constitutional scheme. The appointment of the petitioners was not through the advertisement or by inviting applications through any other means from all eligible candidates. It is well settled principle of law that the daily wagers, temporary or ad hoc employees have no right to the post seeking regularization and grant of regular pay scale, if their appointments were dehors the constitutional scheme or the rules made under the proviso to Article 309 of the Constitution of India.

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6. In the case of ***Secretary, State of Karnataka and others Vs. Umadevi***[1] the Supreme Court has laid down clear enunciation of law which was followed later on in various decisions by the Supreme Court, viz. ***Accounts Officer (A&I) A.P.SRTC and others vs. P. Chandra Sekhara Rao and others***[2], ***Surinder Prasad Tiwari vs. U.P. Rajya Krishi Utpadan Mandi Parishad and others***[3], ***Nagar Mahapalika (now Municipal Corpn.) vs. State of U.P. and others***[4] and ***U.P. State Road Transport Corporation vs. Man Singh***[5].

7. In the case of ***Secretary, State of Karnataka and others*** (Supra), the Supreme Court observed as under :-

> *"45. While directing that appointments, temporary or casual, be regularised or made permanent, the courts are swayed by the fact that the person concerned has worked for some time and in some cases for a considerable length of time. It is not as if the person who accepts an engagement either temporary or casual in nature, is not aware of the nature of his employment. He accepts the employment with open eyes. It may be true that he is not in a position to bargain – not at arm's length – since he might have been searching for some employment so as to eke out his livelihood and accepts whatever he gets. But on that ground alone, it would not be appropriate to jettison the constitutional scheme of appointment and to take the view that a person who has temporarily or casually got employed should be directed to be continued permanently. By doing so, it will be creating another mode of public appointment which is not permissible."*
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> *"47. When a person enters a temporary employment or gets engagement as a contractual or casual worker and the engagement is not based on a proper selection as recognised by the relevant rules or procedure, he is aware of the consequences of the appointment being temporary, casual or contractual in nature. Such a person cannot invoke the*

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theory of legitimate expectation for being confirmed in the post when an appointment to the post could be made only by following a proper procedure for selection and in cases concerned, in consultation with the Public Service Commission."

8. For the reasons above-stated and as per the dicta laid down by the Supreme Court, the petitioners are not entitled to permanent status or regularization in the service and consequential benefits.

9. This petition is accordingly dismissed. No order as to costs.

Sd/-
Satish K. Agnihotri
Judge

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1 (2006) 4 SCC 1
2 (2006) 7 SCC 488
3 (2006) 7 SCC 684
4 2006 AIR SCW 2497
5 2006 AIR SCW 5159

Thakur